

AMENDED IN ASSEMBLY APRIL 23, 2014

AMENDED IN ASSEMBLY APRIL 10, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1449

**Introduced by Assembly Member V. Manuel Pérez
(Coauthors: Assembly Members Alejo, Roger Hernández,
Muratsuchi, and Rodriguez)**

January 7, 2014

An act to amend Sections ~~1170~~, ~~3000.08~~, ~~3000.08~~ and 3451 of the Penal Code, relating to punishment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1449, as amended, V. Manuel Pérez. Realignment Omnibus Act of 2014.

~~(1) Under existing law, certain specified felonies are punishable by imprisonment in a county jail for 16 months, or 2 or 3 years or, where the term is specified, for the term described in the underlying offense. Notwithstanding these provisions, existing law requires that a sentence be served in state prison where the defendant has a prior or current conviction for a serious or violent felony, has a prior felony conviction in another jurisdiction that has all of the elements of a serious or violent felony, is required to register as a sex offender, or has an aggravated white-collar crime enhancement imposed as part of the sentence.~~

~~This bill would additionally require a sentence to be served in the state prison when the defendant is convicted of a felony or felonies otherwise punishable in a county jail and is sentenced to an aggregate term of more than 7 years.~~

~~(2) Existing~~

Existing law requires that all persons released from prison after serving a prison term for a felony, be subject to postrelease community supervision provided by a county agency for a period of 3 years immediately following release, except for persons released after serving a term for a serious felony, a violent felony, an offense for which the person was sentenced pursuant to the 3 strikes law, a crime where the person is classified as a high-risk sex offender, or a crime where the person is required to undergo treatment by the State Department of State Hospitals because the person has a severe mental disorder. Existing law requires *that* these persons ~~to~~ be subject to parole supervision by the Department of Corrections and Rehabilitation following release from state prison and the jurisdiction of the court in the county in which the parolee is released, resides, or in which an alleged violation of supervision has occurred.

This bill would also require *that* any person who is released from prison who has a prior conviction for any of the above crimes ~~to~~ be subject to parole supervision by the department and the jurisdiction of the court in the county in which the parolee is released, resides, or in which an alleged violation of supervision has occurred.

~~This bill would become operative only if the federal court order dated February 10, 2014, requiring prison bed capacity to be at 137.5% of design capacity by February 28, 2016, has been fully complied with on or before February 28, 2016.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known, and may be cited as, the
2 Realignment Omnibus Act of 2014.
3 ~~SEC. 2. Section 1170 of the Penal Code, as amended by Section~~
4 ~~5 of Chapter 508 of the Statutes of 2013, is amended to read:~~
5 ~~1170. (a) (1) The Legislature finds and declares that the~~
6 ~~purpose of imprisonment for crime is punishment. This purpose~~
7 ~~is best served by terms proportionate to the seriousness of the~~
8 ~~offense with provision for uniformity in the sentences of offenders~~
9 ~~committing the same offense under similar circumstances. The~~
10 ~~Legislature further finds and declares that the elimination of~~
11 ~~disparity and the provision of uniformity of sentences can best be~~
12 ~~achieved by determinate sentences fixed by statute in proportion~~

1 to the seriousness of the offense as determined by the Legislature
2 to be imposed by the court with specified discretion.

3 (2) ~~Notwithstanding paragraph (1), the Legislature further finds~~
4 ~~and declares that programs should be available for inmates,~~
5 ~~including, but not limited to, educational programs, that are~~
6 ~~designed to prepare nonviolent felony offenders for successful~~
7 ~~reentry into the community. The Legislature encourages the~~
8 ~~development of policies and programs designed to educate and~~
9 ~~rehabilitate nonviolent felony offenders. In implementing this~~
10 ~~section, the Department of Corrections and Rehabilitation is~~
11 ~~encouraged to give priority enrollment in programs to promote~~
12 ~~successful return to the community to an inmate with a short~~
13 ~~remaining term of commitment and a release date that would allow~~
14 ~~him or her adequate time to complete the program.~~

15 (3) ~~In any case in which the punishment prescribed by statute~~
16 ~~for a person convicted of a public offense is a term of imprisonment~~
17 ~~in the state prison of any specification of three time periods, the~~
18 ~~court shall sentence the defendant to one of the terms of~~
19 ~~imprisonment specified unless the convicted person is given any~~
20 ~~other disposition provided by law, including a fine, jail, probation,~~
21 ~~or the suspension of imposition or execution of sentence or is~~
22 ~~sentenced pursuant to subdivision (b) of Section 1168 because he~~
23 ~~or she had committed his or her crime prior to July 1, 1977. In~~
24 ~~sentencing the convicted person, the court shall apply the~~
25 ~~sentencing rules of the Judicial Council. The court, unless it~~
26 ~~determines that there are circumstances in mitigation of the~~
27 ~~punishment prescribed, shall also impose any other term that it is~~
28 ~~required by law to impose as an additional term. Nothing in this~~
29 ~~article shall affect any provision of law that imposes the death~~
30 ~~penalty, that authorizes or restricts the granting of probation or~~
31 ~~suspending the execution or imposition of sentence, or expressly~~
32 ~~provides for imprisonment in the state prison for life, except as~~
33 ~~provided in paragraph (2) of subdivision (d). In any case in which~~
34 ~~the amount of preimprisonment credit under Section 2900.5 or any~~
35 ~~other provision of law is equal to or exceeds any sentence imposed~~
36 ~~pursuant to this chapter, the entire sentence shall be deemed to~~
37 ~~have been served and the defendant shall not be actually delivered~~
38 ~~to the custody of the secretary. The court shall advise the defendant~~
39 ~~that he or she shall serve a period of parole and order the defendant~~
40 ~~to report to the parole office closest to the defendant's last legal~~

1 residence, unless the in-custody credits equal the total sentence,
2 including both confinement time and the period of parole. The
3 sentence shall be deemed a separate prior prison term under Section
4 667.5, and a copy of the judgment and other necessary
5 documentation shall be forwarded to the secretary.

6 (b) ~~When a judgment of imprisonment is to be imposed and the~~
7 ~~statute specifies three possible terms, the choice of the appropriate~~
8 ~~term shall rest within the sound discretion of the court. At least~~
9 ~~four days prior to the time set for imposition of judgment, either~~
10 ~~party or the victim, or the family of the victim if the victim is~~
11 ~~deceased, may submit a statement in aggravation or mitigation. In~~
12 ~~determining the appropriate term, the court may consider the record~~
13 ~~in the case, the probation officer's report, other reports, including~~
14 ~~reports received pursuant to Section 1203.03, and statements in~~
15 ~~aggravation or mitigation submitted by the prosecution, the~~
16 ~~defendant, or the victim, or the family of the victim if the victim~~
17 ~~is deceased, and any further evidence introduced at the sentencing~~
18 ~~hearing. The court shall select the term which, in the court's~~
19 ~~discretion, best serves the interests of justice. The court shall set~~
20 ~~forth on the record the reasons for imposing the term selected and~~
21 ~~the court may not impose an upper term by using the fact of any~~
22 ~~enhancement upon which sentence is imposed under any provision~~
23 ~~of law. A term of imprisonment shall not be specified if imposition~~
24 ~~of sentence is suspended.~~

25 (c) ~~The court shall state the reasons for its sentence choice on~~
26 ~~the record at the time of sentencing. The court shall also inform~~
27 ~~the defendant that as part of the sentence after expiration of the~~
28 ~~term he or she may be on parole for a period as provided in Section~~
29 ~~3000.~~

30 (d) ~~(1) When a defendant subject to this section or subdivision~~
31 ~~(b) of Section 1168 has been sentenced to be imprisoned in the~~
32 ~~state prison and has been committed to the custody of the secretary,~~
33 ~~the court may, within 120 days of the date of commitment on its~~
34 ~~own motion, or at any time upon the recommendation of the~~
35 ~~secretary or the Board of Parole Hearings, recall the sentence and~~
36 ~~commitment previously ordered and resentence the defendant in~~
37 ~~the same manner as if he or she had not previously been sentenced,~~
38 ~~provided the new sentence, if any, is no greater than the initial~~
39 ~~sentence. The court resentencing under this subdivision shall apply~~
40 ~~the sentencing rules of the Judicial Council so as to eliminate~~

1 ~~disparity of sentences and to promote uniformity of sentencing.~~
2 ~~Credit shall be given for time served.~~

3 ~~(2) (A) (i) When a defendant who was under 18 years of age~~
4 ~~at the time of the commission of the offense for which the~~
5 ~~defendant was sentenced to imprisonment for life without the~~
6 ~~possibility of parole has served at least 15 years of that sentence,~~
7 ~~the defendant may submit to the sentencing court a petition for~~
8 ~~recall and resentencing.~~

9 ~~(ii) Notwithstanding clause (i), this paragraph shall not apply~~
10 ~~to defendants sentenced to life without parole for an offense where~~
11 ~~the defendant tortured, as described in Section 206, his or her~~
12 ~~victim or the victim was a public safety official, including any law~~
13 ~~enforcement personnel mentioned in Chapter 4.5 (commencing~~
14 ~~with Section 830) of Title 3, or any firefighter as described in~~
15 ~~Section 245.1, as well as any other officer in any segment of law~~
16 ~~enforcement who is employed by the federal government, the state,~~
17 ~~or any of its political subdivisions.~~

18 ~~(B) The defendant shall file the original petition with the~~
19 ~~sentencing court. A copy of the petition shall be served on the~~
20 ~~agency that prosecuted the case. The petition shall include the~~
21 ~~defendant's statement that he or she was under 18 years of age at~~
22 ~~the time of the crime and was sentenced to life in prison without~~
23 ~~the possibility of parole, the defendant's statement describing his~~
24 ~~or her remorse and work towards rehabilitation, and the defendant's~~
25 ~~statement that one of the following is true:~~

26 ~~(i) The defendant was convicted pursuant to felony murder or~~
27 ~~aiding and abetting murder provisions of law.~~

28 ~~(ii) The defendant does not have juvenile felony adjudications~~
29 ~~for assault or other felony crimes with a significant potential for~~
30 ~~personal harm to victims prior to the offense for which the sentence~~
31 ~~is being considered for recall.~~

32 ~~(iii) The defendant committed the offense with at least one adult~~
33 ~~codefendant.~~

34 ~~(iv) The defendant has performed acts that tend to indicate~~
35 ~~rehabilitation or the potential for rehabilitation, including, but not~~
36 ~~limited to, availing himself or herself of rehabilitative, educational,~~
37 ~~or vocational programs, if those programs have been available at~~
38 ~~his or her classification level and facility, using self-study for~~
39 ~~self-improvement, or showing evidence of remorse.~~

1 ~~(C) If any of the information required in subparagraph (B) is~~
2 ~~missing from the petition, or if proof of service on the prosecuting~~
3 ~~agency is not provided, the court shall return the petition to the~~
4 ~~defendant and advise the defendant that the matter cannot be~~
5 ~~considered without the missing information.~~

6 ~~(D) A reply to the petition, if any, shall be filed with the court~~
7 ~~within 60 days of the date on which the prosecuting agency was~~
8 ~~served with the petition, unless a continuance is granted for good~~
9 ~~cause.~~

10 ~~(E) If the court finds by a preponderance of the evidence that~~
11 ~~the statements in the petition are true, the court shall hold a hearing~~
12 ~~to consider whether to recall the sentence and commitment~~
13 ~~previously ordered and to resentence the defendant in the same~~
14 ~~manner as if the defendant had not previously been sentenced;~~
15 ~~provided that the new sentence, if any, is not greater than the initial~~
16 ~~sentence. Victims, or victim family members if the victim is~~
17 ~~deceased, shall retain the rights to participate in the hearing.~~

18 ~~(F) The factors that the court may consider when determining~~
19 ~~whether to recall and resentence include, but are not limited to,~~
20 ~~the following:~~

21 ~~(i) The defendant was convicted pursuant to felony murder or~~
22 ~~aiding and abetting murder provisions of law.~~

23 ~~(ii) The defendant does not have juvenile felony adjudications~~
24 ~~for assault or other felony crimes with a significant potential for~~
25 ~~personal harm to victims prior to the offense for which the sentence~~
26 ~~is being considered for recall.~~

27 ~~(iii) The defendant committed the offense with at least one adult~~
28 ~~codefendant.~~

29 ~~(iv) Prior to the offense for which the sentence is being~~
30 ~~considered for recall, the defendant had insufficient adult support~~
31 ~~or supervision and had suffered from psychological or physical~~
32 ~~trauma, or significant stress.~~

33 ~~(v) The defendant suffers from cognitive limitations due to~~
34 ~~mental illness, developmental disabilities, or other factors that did~~
35 ~~not constitute a defense, but influenced the defendant's~~
36 ~~involvement in the offense.~~

37 ~~(vi) The defendant has performed acts that tend to indicate~~
38 ~~rehabilitation or the potential for rehabilitation, including, but not~~
39 ~~limited to, availing himself or herself of rehabilitative, educational,~~
40 ~~or vocational programs, if those programs have been available at~~

1 his or her classification level and facility, using self-study for
2 self-improvement, or showing evidence of remorse.

3 (vii) The defendant has maintained family ties or connections
4 with others through letter writing, calls, or visits, or has eliminated
5 contact with individuals outside of prison who are currently
6 involved with crime.

7 (viii) The defendant has had no disciplinary actions for violent
8 activities in the last five years in which the defendant was
9 determined to be the aggressor.

10 (G) The court shall have the discretion to recall the sentence
11 and commitment previously ordered and to resentence the
12 defendant in the same manner as if the defendant had not
13 previously been sentenced, provided that the new sentence, if any,
14 is not greater than the initial sentence. The discretion of the court
15 shall be exercised in consideration of the criteria in subparagraph
16 (B). Victims, or victim family members if the victim is deceased,
17 shall be notified of the resentencing hearing and shall retain their
18 rights to participate in the hearing.

19 (H) If the sentence is not recalled, the defendant may submit
20 another petition for recall and resentencing to the sentencing court
21 when the defendant has been committed to the custody of the
22 department for at least 20 years. If recall and resentencing is not
23 granted under that petition, the defendant may file another petition
24 after having served 24 years. The final petition may be submitted,
25 and the response to that petition shall be determined, during the
26 25th year of the defendant's sentence.

27 (I) In addition to the criteria in subparagraph (F), the court may
28 consider any other criteria that the court deems relevant to its
29 decision, so long as the court identifies them on the record,
30 provides a statement of reasons for adopting them, and states why
31 the defendant does or does not satisfy the criteria.

32 (J) This subdivision shall have retroactive application.

33 (e) (1) Notwithstanding any other law and consistent with
34 paragraph (1) of subdivision (a), if the secretary or the Board of
35 Parole Hearings or both determine that a prisoner satisfies the
36 criteria set forth in paragraph (2), the secretary or the board may
37 recommend to the court that the prisoner's sentence be recalled.

38 (2) The court shall have the discretion to resentence or recall if
39 the court finds that the facts described in subparagraphs (A) and
40 (B) or subparagraphs (B) and (C) exist:

1 (A) ~~The prisoner is terminally ill with an incurable condition~~
2 ~~caused by an illness or disease that would produce death within~~
3 ~~six months, as determined by a physician employed by the~~
4 ~~department.~~

5 (B) ~~The conditions under which the prisoner would be released~~
6 ~~or receive treatment do not pose a threat to public safety.~~

7 (C) ~~The prisoner is permanently medically incapacitated with~~
8 ~~a medical condition that renders him or her permanently unable~~
9 ~~to perform activities of basic daily living, and results in the prisoner~~
10 ~~requiring 24-hour total care, including, but not limited to, coma,~~
11 ~~persistent vegetative state, brain death, ventilator-dependency, loss~~
12 ~~of control of muscular or neurological function, and that~~
13 ~~incapacitation did not exist at the time of the original sentencing.~~

14 ~~The Board of Parole Hearings shall make findings pursuant to~~
15 ~~this subdivision before making a recommendation for resentence~~
16 ~~or recall to the court. This subdivision does not apply to a prisoner~~
17 ~~sentenced to death or a term of life without the possibility of parole.~~

18 (3) ~~Within 10 days of receipt of a positive recommendation by~~
19 ~~the secretary or the board, the court shall hold a hearing to consider~~
20 ~~whether the prisoner's sentence should be recalled.~~

21 (4) ~~Any physician employed by the department who determines~~
22 ~~that a prisoner has six months or less to live shall notify the chief~~
23 ~~medical officer of the prognosis. If the chief medical officer~~
24 ~~concurs with the prognosis, he or she shall notify the warden.~~
25 ~~Within 48 hours of receiving notification, the warden or the~~
26 ~~warden's representative shall notify the prisoner of the recall and~~
27 ~~resentencing procedures, and shall arrange for the prisoner to~~
28 ~~designate a family member or other outside agent to be notified~~
29 ~~as to the prisoner's medical condition and prognosis, and as to the~~
30 ~~recall and resentencing procedures. If the inmate is deemed~~
31 ~~mentally unfit, the warden or the warden's representative shall~~
32 ~~contact the inmate's emergency contact and provide the information~~
33 ~~described in paragraph (2).~~

34 (5) ~~The warden or the warden's representative shall provide the~~
35 ~~prisoner and his or her family member, agent, or emergency~~
36 ~~contact, as described in paragraph (4), updated information~~
37 ~~throughout the recall and resentencing process with regard to the~~
38 ~~prisoner's medical condition and the status of the prisoner's recall~~
39 ~~and resentencing proceedings.~~

1 ~~(6) Notwithstanding any other provisions of this section, the~~
2 ~~prisoner or his or her family member or designee may~~
3 ~~independently request consideration for recall and resentencing~~
4 ~~by contacting the chief medical officer at the prison or the~~
5 ~~secretary. Upon receipt of the request, the chief medical officer~~
6 ~~and the warden or the warden's representative shall follow the~~
7 ~~procedures described in paragraph (4). If the secretary determines~~
8 ~~that the prisoner satisfies the criteria set forth in paragraph (2), the~~
9 ~~secretary or board may recommend to the court that the prisoner's~~
10 ~~sentence be recalled. The secretary shall submit a recommendation~~
11 ~~for release within 30 days in the case of inmates sentenced to~~
12 ~~determinate terms and, in the case of inmates sentenced to~~
13 ~~indeterminate terms, the secretary shall make a recommendation~~
14 ~~to the Board of Parole Hearings with respect to the inmates who~~
15 ~~have applied under this section. The board shall consider this~~
16 ~~information and make an independent judgment pursuant to~~
17 ~~paragraph (2) and make findings related thereto before rejecting~~
18 ~~the request or making a recommendation to the court. This action~~
19 ~~shall be taken at the next lawfully noticed board meeting.~~

20 ~~(7) Any recommendation for recall submitted to the court by~~
21 ~~the secretary or the Board of Parole Hearings shall include one or~~
22 ~~more medical evaluations, a postrelease plan, and findings pursuant~~
23 ~~to paragraph (2).~~

24 ~~(8) If possible, the matter shall be heard before the same judge~~
25 ~~of the court who sentenced the prisoner.~~

26 ~~(9) If the court grants the recall and resentencing application,~~
27 ~~the prisoner shall be released by the department within 48 hours~~
28 ~~of receipt of the court's order, unless a longer time period is agreed~~
29 ~~to by the inmate. At the time of release, the warden or the warden's~~
30 ~~representative shall ensure that the prisoner has each of the~~
31 ~~following in his or her possession: a discharge medical summary,~~
32 ~~full medical records, state identification, parole medications, and~~
33 ~~all property belonging to the prisoner. After discharge, any~~
34 ~~additional records shall be sent to the prisoner's forwarding~~
35 ~~address.~~

36 ~~(10) The secretary shall issue a directive to medical and~~
37 ~~correctional staff employed by the department that details the~~
38 ~~guidelines and procedures for initiating a recall and resentencing~~
39 ~~procedure. The directive shall clearly state that any prisoner who~~
40 ~~is given a prognosis of six months or less to live is eligible for~~

1 recall and resentencing consideration, and that recall and
2 resentencing procedures shall be initiated upon that prognosis.

3 (f) Notwithstanding any other provision of this section, for
4 purposes of paragraph (3) of subdivision (h), any allegation that
5 a defendant is eligible for state prison due to a prior or current
6 conviction, sentence enhancement, or because he or she is required
7 to register as a sex offender shall not be subject to dismissal
8 pursuant to Section 1385.

9 (g) A sentence to state prison for a determinate term for which
10 only one term is specified, is a sentence to state prison under this
11 section.

12 (h) (1) Except as provided in paragraph (3), a felony punishable
13 pursuant to this subdivision where the term is not specified in the
14 underlying offense shall be punishable by a term of imprisonment
15 in a county jail for 16 months, or two or three years.

16 (2) Except as provided in paragraph (3), a felony punishable
17 pursuant to this subdivision shall be punishable by imprisonment
18 in a county jail for the term described in the underlying offense.

19 (3) Notwithstanding paragraphs (1) and (2), where the defendant
20 (A) has a prior or current felony conviction for a serious felony
21 described in subdivision (e) of Section 1192.7 or a prior or current
22 conviction for a violent felony described in subdivision (e) of
23 Section 667.5, (B) has a prior felony conviction in another
24 jurisdiction for an offense that has all the elements of a serious
25 felony described in subdivision (e) of Section 1192.7 or a violent
26 felony described in subdivision (e) of Section 667.5, (C) is required
27 to register as a sex offender pursuant to Chapter 5.5 (commencing
28 with Section 290) of Title 9 of Part 1, (D) is convicted of a crime
29 and as part of the sentence an enhancement pursuant to Section
30 186.11 is imposed, or (E) is convicted of a felony or felonies
31 punishable pursuant to this subdivision and is sentenced to an
32 aggregate term of more than seven years, an executed sentence for
33 a felony punishable pursuant to this subdivision shall be served in
34 state prison.

35 (4) Nothing in this subdivision shall be construed to prevent
36 other dispositions authorized by law, including pretrial diversion,
37 deferred entry of judgment, or an order granting probation pursuant
38 to Section 1203.1.

1 ~~(5) The court, when imposing a sentence pursuant to paragraph~~
2 ~~(1) or (2) of this subdivision, may commit the defendant to county~~
3 ~~jail as follows:~~

4 ~~(A) For a full term in custody as determined in accordance with~~
5 ~~the applicable sentencing law.~~

6 ~~(B) (i) For a term as determined in accordance with the~~
7 ~~applicable sentencing law, but suspend execution of a concluding~~
8 ~~portion of the term selected in the court's discretion, during which~~
9 ~~time the defendant shall be supervised by the county probation~~
10 ~~officer in accordance with the terms, conditions, and procedures~~
11 ~~generally applicable to persons placed on probation, for the~~
12 ~~remaining unserved portion of the sentence imposed by the court.~~
13 ~~The period of supervision shall be mandatory, and may not be~~
14 ~~earlier terminated except by court order. Any proceeding to revoke~~
15 ~~or modify mandatory supervision under this subparagraph shall~~
16 ~~be conducted pursuant to either subdivisions (a) and (b) of Section~~
17 ~~1203.2 or Section 1203.3. During the period when the defendant~~
18 ~~is under such supervision, unless in actual custody related to the~~
19 ~~sentence imposed by the court, the defendant shall be entitled to~~
20 ~~only actual time credit against the term of imprisonment imposed~~
21 ~~by the court. Any time period which is suspended because a person~~
22 ~~has absconded shall not be credited toward the period of~~
23 ~~supervision.~~

24 ~~(ii) The portion of a defendant's sentenced term during which~~
25 ~~time he or she is supervised by the county probation officer~~
26 ~~pursuant to this subparagraph shall be known as mandatory~~
27 ~~supervision.~~

28 ~~(6) The sentencing changes made by the act that added this~~
29 ~~subdivision shall be applied prospectively to any person sentenced~~
30 ~~on or after October 1, 2011.~~

31 ~~(i) This section shall remain in effect only until January 1, 2017,~~
32 ~~and as of that date is repealed, unless a later enacted statute, that~~
33 ~~is enacted before that date, deletes or extends that date.~~

34 ~~SEC. 3. Section 1170 of the Penal Code, as amended by Section~~
35 ~~6 of Chapter 508 of the Statutes of 2013, is amended to read:~~

36 ~~1170. (a) (1) The Legislature finds and declares that the~~
37 ~~purpose of imprisonment for crime is punishment. This purpose~~
38 ~~is best served by terms proportionate to the seriousness of the~~
39 ~~offense with provision for uniformity in the sentences of offenders~~
40 ~~committing the same offense under similar circumstances. The~~

1 ~~Legislature further finds and declares that the elimination of~~
2 ~~disparity and the provision of uniformity of sentences can best be~~
3 ~~achieved by determinate sentences fixed by statute in proportion~~
4 ~~to the seriousness of the offense as determined by the Legislature~~
5 ~~to be imposed by the court with specified discretion.~~

6 ~~(2) Notwithstanding paragraph (1), the Legislature further finds~~
7 ~~and declares that programs should be available for inmates,~~
8 ~~including, but not limited to, educational programs, that are~~
9 ~~designed to prepare nonviolent felony offenders for successful~~
10 ~~reentry into the community. The Legislature encourages the~~
11 ~~development of policies and programs designed to educate and~~
12 ~~rehabilitate nonviolent felony offenders. In implementing this~~
13 ~~section, the Department of Corrections and Rehabilitation is~~
14 ~~encouraged to give priority enrollment in programs to promote~~
15 ~~successful return to the community to an inmate with a short~~
16 ~~remaining term of commitment and a release date that would allow~~
17 ~~him or her adequate time to complete the program.~~

18 ~~(3) In any case in which the punishment prescribed by statute~~
19 ~~for a person convicted of a public offense is a term of imprisonment~~
20 ~~in the state prison of any specification of three time periods, the~~
21 ~~court shall sentence the defendant to one of the terms of~~
22 ~~imprisonment specified unless the convicted person is given any~~
23 ~~other disposition provided by law, including a fine, jail, probation,~~
24 ~~or the suspension of imposition or execution of sentence or is~~
25 ~~sentenced pursuant to subdivision (b) of Section 1168 because he~~
26 ~~or she had committed his or her crime prior to July 1, 1977. In~~
27 ~~sentencing the convicted person, the court shall apply the~~
28 ~~sentencing rules of the Judicial Council. The court, unless it~~
29 ~~determines that there are circumstances in mitigation of the~~
30 ~~punishment prescribed, shall also impose any other term that it is~~
31 ~~required by law to impose as an additional term. Nothing in this~~
32 ~~article shall affect any provision of law that imposes the death~~
33 ~~penalty, that authorizes or restricts the granting of probation or~~
34 ~~suspending the execution or imposition of sentence, or expressly~~
35 ~~provides for imprisonment in the state prison for life, except as~~
36 ~~provided in paragraph (2) of subdivision (d). In any case in which~~
37 ~~the amount of preimprisonment credit under Section 2900.5 or any~~
38 ~~other provision of law is equal to or exceeds any sentence imposed~~
39 ~~pursuant to this chapter, the entire sentence shall be deemed to~~
40 ~~have been served and the defendant shall not be actually delivered~~

1 to the custody of the secretary. The court shall advise the defendant
2 that he or she shall serve a period of parole and order the defendant
3 to report to the parole office closest to the defendant's last legal
4 residence, unless the in-custody credits equal the total sentence,
5 including both confinement time and the period of parole. The
6 sentence shall be deemed a separate prior prison term under Section
7 667.5, and a copy of the judgment and other necessary
8 documentation shall be forwarded to the secretary.

9 (b) ~~When a judgment of imprisonment is to be imposed and the~~
10 ~~statute specifies three possible terms, the court shall order~~
11 ~~imposition of the middle term, unless there are circumstances in~~
12 ~~aggravation or mitigation of the crime. At least four days prior to~~
13 ~~the time set for imposition of judgment, either party or the victim,~~
14 ~~or the family of the victim if the victim is deceased, may submit~~
15 ~~a statement in aggravation or mitigation to dispute facts in the~~
16 ~~record or the probation officer's report, or to present additional~~
17 ~~facts. In determining whether there are circumstances that justify~~
18 ~~imposition of the upper or lower term, the court may consider the~~
19 ~~record in the case, the probation officer's report, other reports,~~
20 ~~including reports received pursuant to Section 1203.03, and~~
21 ~~statements in aggravation or mitigation submitted by the~~
22 ~~prosecution, the defendant, or the victim, or the family of the victim~~
23 ~~if the victim is deceased, and any further evidence introduced at~~
24 ~~the sentencing hearing. The court shall set forth on the record the~~
25 ~~facts and reasons for imposing the upper or lower term. The court~~
26 ~~may not impose an upper term by using the fact of any~~
27 ~~enhancement upon which sentence is imposed under any provision~~
28 ~~of law. A term of imprisonment shall not be specified if imposition~~
29 ~~of sentence is suspended.~~

30 (c) ~~The court shall state the reasons for its sentence choice on~~
31 ~~the record at the time of sentencing. The court shall also inform~~
32 ~~the defendant that as part of the sentence after expiration of the~~
33 ~~term he or she may be on parole for a period as provided in Section~~
34 ~~3000.~~

35 (d) ~~(1) When a defendant subject to this section or subdivision~~
36 ~~(b) of Section 1168 has been sentenced to be imprisoned in the~~
37 ~~state prison and has been committed to the custody of the secretary,~~
38 ~~the court may, within 120 days of the date of commitment on its~~
39 ~~own motion, or at any time upon the recommendation of the~~
40 ~~secretary or the Board of Parole Hearings, recall the sentence and~~

~~commitment previously ordered and resentence the defendant in the same manner as if he or she had not previously been sentenced; provided the new sentence, if any, is no greater than the initial sentence. The court resentencing under this subdivision shall apply the sentencing rules of the Judicial Council so as to eliminate disparity of sentences and to promote uniformity of sentencing. Credit shall be given for time served.~~

~~(2) (A) (i) When a defendant who was under 18 years of age at the time of the commission of the offense for which the defendant was sentenced to imprisonment for life without the possibility of parole has served at least 15 years of that sentence, the defendant may submit to the sentencing court a petition for recall and resentencing.~~

~~(ii) Notwithstanding clause (i), this paragraph shall not apply to defendants sentenced to life without parole for an offense where the defendant tortured, as described in Section 206, his or her victim or the victim was a public safety official, including any law enforcement personnel mentioned in Chapter 4.5 (commencing with Section 830) of Title 3, or any firefighter as described in Section 245.1, as well as any other officer in any segment of law enforcement who is employed by the federal government, the state, or any of its political subdivisions.~~

~~(B) The defendant shall file the original petition with the sentencing court. A copy of the petition shall be served on the agency that prosecuted the case. The petition shall include the defendant's statement that he or she was under 18 years of age at the time of the crime and was sentenced to life in prison without the possibility of parole, the defendant's statement describing his or her remorse and work towards rehabilitation, and the defendant's statement that one of the following is true:~~

~~(i) The defendant was convicted pursuant to felony murder or aiding and abetting murder provisions of law.~~

~~(ii) The defendant does not have juvenile felony adjudications for assault or other felony crimes with a significant potential for personal harm to victims prior to the offense for which the sentence is being considered for recall.~~

~~(iii) The defendant committed the offense with at least one adult codefendant.~~

~~(iv) The defendant has performed acts that tend to indicate rehabilitation or the potential for rehabilitation, including, but not~~

1 limited to, availing himself or herself of rehabilitative, educational,
2 or vocational programs, if those programs have been available at
3 his or her classification level and facility, using self-study for
4 self-improvement, or showing evidence of remorse.

5 (C) If any of the information required in subparagraph (B) is
6 missing from the petition, or if proof of service on the prosecuting
7 agency is not provided, the court shall return the petition to the
8 defendant and advise the defendant that the matter cannot be
9 considered without the missing information.

10 (D) A reply to the petition, if any, shall be filed with the court
11 within 60 days of the date on which the prosecuting agency was
12 served with the petition, unless a continuance is granted for good
13 cause.

14 (E) If the court finds by a preponderance of the evidence that
15 the statements in the petition are true, the court shall hold a hearing
16 to consider whether to recall the sentence and commitment
17 previously ordered and to resentence the defendant in the same
18 manner as if the defendant had not previously been sentenced,
19 provided that the new sentence, if any, is not greater than the initial
20 sentence. Victims, or victim family members if the victim is
21 deceased, shall retain the rights to participate in the hearing.

22 (F) The factors that the court may consider when determining
23 whether to recall and resentence include, but are not limited to,
24 the following:

25 (i) The defendant was convicted pursuant to felony murder or
26 aiding and abetting murder provisions of law.

27 (ii) The defendant does not have juvenile felony adjudications
28 for assault or other felony crimes with a significant potential for
29 personal harm to victims prior to the offense for which the sentence
30 is being considered for recall.

31 (iii) The defendant committed the offense with at least one adult
32 codefendant.

33 (iv) Prior to the offense for which the sentence is being
34 considered for recall, the defendant had insufficient adult support
35 or supervision and had suffered from psychological or physical
36 trauma, or significant stress.

37 (v) The defendant suffers from cognitive limitations due to
38 mental illness, developmental disabilities, or other factors that did
39 not constitute a defense, but influenced the defendant's
40 involvement in the offense.

~~(vi) The defendant has performed acts that tend to indicate rehabilitation or the potential for rehabilitation, including, but not limited to, availing himself or herself of rehabilitative, educational, or vocational programs, if those programs have been available at his or her classification level and facility, using self-study for self-improvement, or showing evidence of remorse.~~

~~(vii) The defendant has maintained family ties or connections with others through letter writing, calls, or visits, or has eliminated contact with individuals outside of prison who are currently involved with crime.~~

~~(viii) The defendant has had no disciplinary actions for violent activities in the last five years in which the defendant was determined to be the aggressor.~~

~~(G) The court shall have the discretion to recall the sentence and commitment previously ordered and to resentence the defendant in the same manner as if the defendant had not previously been sentenced, provided that the new sentence, if any, is not greater than the initial sentence. The discretion of the court shall be exercised in consideration of the criteria in subparagraph (B). Victims, or victim family members if the victim is deceased, shall be notified of the resentencing hearing and shall retain their rights to participate in the hearing.~~

~~(H) If the sentence is not recalled, the defendant may submit another petition for recall and resentencing to the sentencing court when the defendant has been committed to the custody of the department for at least 20 years. If recall and resentencing is not granted under that petition, the defendant may file another petition after having served 24 years. The final petition may be submitted, and the response to that petition shall be determined, during the 25th year of the defendant's sentence.~~

~~(I) In addition to the criteria in subparagraph (F), the court may consider any other criteria that the court deems relevant to its decision, so long as the court identifies them on the record, provides a statement of reasons for adopting them, and states why the defendant does or does not satisfy the criteria.~~

~~(J) This subdivision shall have retroactive application.~~

~~(e) (1) Notwithstanding any other law and consistent with paragraph (1) of subdivision (a), if the secretary or the Board of Parole Hearings or both determine that a prisoner satisfies the~~

1 criteria set forth in paragraph (2), the secretary or the board may
2 recommend to the court that the prisoner's sentence be recalled.

3 (2) The court shall have the discretion to resentence or recall if
4 the court finds that the facts described in subparagraphs (A) and
5 (B) or subparagraphs (B) and (C) exist:

6 (A) The prisoner is terminally ill with an incurable condition
7 caused by an illness or disease that would produce death within
8 six months, as determined by a physician employed by the
9 department.

10 (B) The conditions under which the prisoner would be released
11 or receive treatment do not pose a threat to public safety.

12 (C) The prisoner is permanently medically incapacitated with
13 a medical condition that renders him or her permanently unable
14 to perform activities of basic daily living, and results in the prisoner
15 requiring 24-hour total care, including, but not limited to, coma,
16 persistent vegetative state, brain death, ventilator-dependency, loss
17 of control of muscular or neurological function, and that
18 incapacitation did not exist at the time of the original sentencing.

19 The Board of Parole Hearings shall make findings pursuant to
20 this subdivision before making a recommendation for resentence
21 or recall to the court. This subdivision does not apply to a prisoner
22 sentenced to death or a term of life without the possibility of parole.

23 (3) Within 10 days of receipt of a positive recommendation by
24 the secretary or the board, the court shall hold a hearing to consider
25 whether the prisoner's sentence should be recalled.

26 (4) Any physician employed by the department who determines
27 that a prisoner has six months or less to live shall notify the chief
28 medical officer of the prognosis. If the chief medical officer
29 concurs with the prognosis, he or she shall notify the warden.
30 Within 48 hours of receiving notification, the warden or the
31 warden's representative shall notify the prisoner of the recall and
32 resentencing procedures, and shall arrange for the prisoner to
33 designate a family member or other outside agent to be notified
34 as to the prisoner's medical condition and prognosis, and as to the
35 recall and resentencing procedures. If the inmate is deemed
36 mentally unfit, the warden or the warden's representative shall
37 contact the inmate's emergency contact and provide the information
38 described in paragraph (2).

39 (5) The warden or the warden's representative shall provide the
40 prisoner and his or her family member, agent, or emergency

1 contact, as described in paragraph (4), updated information
2 throughout the recall and resentencing process with regard to the
3 prisoner's medical condition and the status of the prisoner's recall
4 and resentencing proceedings.

5 (6) Notwithstanding any other provisions of this section, the
6 prisoner or his or her family member or designee may
7 independently request consideration for recall and resentencing
8 by contacting the chief medical officer at the prison or the
9 secretary. Upon receipt of the request, the chief medical officer
10 and the warden or the warden's representative shall follow the
11 procedures described in paragraph (4). If the secretary determines
12 that the prisoner satisfies the criteria set forth in paragraph (2), the
13 secretary or board may recommend to the court that the prisoner's
14 sentence be recalled. The secretary shall submit a recommendation
15 for release within 30 days in the case of inmates sentenced to
16 determinate terms and, in the case of inmates sentenced to
17 indeterminate terms, the secretary shall make a recommendation
18 to the Board of Parole Hearings with respect to the inmates who
19 have applied under this section. The board shall consider this
20 information and make an independent judgment pursuant to
21 paragraph (2) and make findings related thereto before rejecting
22 the request or making a recommendation to the court. This action
23 shall be taken at the next lawfully noticed board meeting.

24 (7) Any recommendation for recall submitted to the court by
25 the secretary or the Board of Parole Hearings shall include one or
26 more medical evaluations, a postrelease plan, and findings pursuant
27 to paragraph (2).

28 (8) If possible, the matter shall be heard before the same judge
29 of the court who sentenced the prisoner.

30 (9) If the court grants the recall and resentencing application,
31 the prisoner shall be released by the department within 48 hours
32 of receipt of the court's order, unless a longer time period is agreed
33 to by the inmate. At the time of release, the warden or the warden's
34 representative shall ensure that the prisoner has each of the
35 following in his or her possession: a discharge medical summary,
36 full medical records, state identification, parole medications, and
37 all property belonging to the prisoner. After discharge, any
38 additional records shall be sent to the prisoner's forwarding
39 address.

1 ~~(10) The secretary shall issue a directive to medical and~~
2 ~~correctional staff employed by the department that details the~~
3 ~~guidelines and procedures for initiating a recall and resentencing~~
4 ~~procedure. The directive shall clearly state that any prisoner who~~
5 ~~is given a prognosis of six months or less to live is eligible for~~
6 ~~recall and resentencing consideration, and that recall and~~
7 ~~resentencing procedures shall be initiated upon that prognosis.~~

8 ~~(f) Notwithstanding any other provision of this section, for~~
9 ~~purposes of paragraph (3) of subdivision (h), any allegation that~~
10 ~~a defendant is eligible for state prison due to a prior or current~~
11 ~~conviction, sentence enhancement, or because he or she is required~~
12 ~~to register as a sex offender shall not be subject to dismissal~~
13 ~~pursuant to Section 1385.~~

14 ~~(g) A sentence to state prison for a determinate term for which~~
15 ~~only one term is specified, is a sentence to state prison under this~~
16 ~~section.~~

17 ~~(h) (1) Except as provided in paragraph (3), a felony punishable~~
18 ~~pursuant to this subdivision where the term is not specified in the~~
19 ~~underlying offense shall be punishable by a term of imprisonment~~
20 ~~in a county jail for 16 months, or two or three years.~~

21 ~~(2) Except as provided in paragraph (3), a felony punishable~~
22 ~~pursuant to this subdivision shall be punishable by imprisonment~~
23 ~~in a county jail for the term described in the underlying offense.~~

24 ~~(3) Notwithstanding paragraphs (1) and (2), where the defendant~~
25 ~~(A) has a prior or current felony conviction for a serious felony~~
26 ~~described in subdivision (c) of Section 1192.7 or a prior or current~~
27 ~~conviction for a violent felony described in subdivision (c) of~~
28 ~~Section 667.5, (B) has a prior felony conviction in another~~
29 ~~jurisdiction for an offense that has all the elements of a serious~~
30 ~~felony described in subdivision (c) of Section 1192.7 or a violent~~
31 ~~felony described in subdivision (c) of Section 667.5, (C) is required~~
32 ~~to register as a sex offender pursuant to Chapter 5.5 (commencing~~
33 ~~with Section 290) of Title 9 of Part 1, (D) is convicted of a crime~~
34 ~~and as part of the sentence an enhancement pursuant to Section~~
35 ~~186.11 is imposed, or (E) is convicted of a felony or felonies~~
36 ~~punishable pursuant to this subdivision and is sentenced to an~~
37 ~~aggregate term of more than seven years, an executed sentence for~~
38 ~~a felony punishable pursuant to this subdivision shall be served in~~
39 ~~state prison.~~

~~(4) Nothing in this subdivision shall be construed to prevent other dispositions authorized by law, including pretrial diversion, deferred entry of judgment, or an order granting probation pursuant to Section 1203.1.~~

~~(5) The court, when imposing a sentence pursuant to paragraph (1) or (2) of this subdivision, may commit the defendant to county jail as follows:~~

~~(A) For a full term in custody as determined in accordance with the applicable sentencing law.~~

~~(B) (i) For a term as determined in accordance with the applicable sentencing law, but suspend execution of a concluding portion of the term selected in the court's discretion, during which time the defendant shall be supervised by the county probation officer in accordance with the terms, conditions, and procedures generally applicable to persons placed on probation, for the remaining unserved portion of the sentence imposed by the court. The period of supervision shall be mandatory, and may not be earlier terminated except by court order. Any proceeding to revoke or modify mandatory supervision under this subparagraph shall be conducted pursuant to either subdivisions (a) and (b) of Section 1203.2 or Section 1203.3. During the period when the defendant is under such supervision, unless in actual custody related to the sentence imposed by the court, the defendant shall be entitled to only actual time credit against the term of imprisonment imposed by the court. Any time period which is suspended because a person has absconded shall not be credited toward the period of supervision.~~

~~(ii) The portion of a defendant's sentenced term during which time he or she is supervised by the county probation officer pursuant to this subparagraph shall be known as mandatory supervision, and shall begin upon release from custody.~~

~~(6) The sentencing changes made by the act that added this subdivision shall be applied prospectively to any person sentenced on or after October 1, 2011.~~

~~(i) This section shall become operative on January 1, 2017.~~

~~SEC. 4.~~

~~SEC. 2. Section 3000.08 of the Penal Code is amended to read:~~

~~3000.08. (a) A person released from state prison prior to or on or after July 1, 2013, after serving a prison term, or whose sentence has been deemed served pursuant to Section 2900.5, for~~

1 any of the following crimes is subject to parole supervision by the
2 Department of Corrections and Rehabilitation and the jurisdiction
3 of the court in the county in which the parolee is released, resides,
4 or in which an alleged violation of supervision has occurred, for
5 the purpose of hearing petitions to revoke parole and impose a
6 term of custody:

7 (1) A serious felony as described in subdivision (c) of Section
8 1192.7.

9 (2) A violent felony as described in subdivision (c) of Section
10 667.5.

11 (3) A crime for which the person was sentenced pursuant to
12 paragraph (2) of subdivision (e) of Section 667 or paragraph (2)
13 of subdivision (c) of Section 1170.12.

14 (4) Any crime for which the person is classified as a high-risk
15 sex offender.

16 (5) Any crime for which the person is required, as a condition
17 of parole, to undergo treatment by the State Department of State
18 Hospitals pursuant to Section 2962.

19 (b) A person released from state prison on or after January 1,
20 2015, after serving a prison term, or whose sentence has been
21 deemed served pursuant to Section 2900.5, to whom any of the
22 following apply, is subject to the jurisdiction of, and parole
23 supervision by, the Department of Corrections and Rehabilitation
24 and the jurisdiction of the court in the county in which the parolee
25 is released, resides, or in which an alleged violation of supervision
26 has occurred, for the purpose of hearing petitions to revoke parole
27 and impose a term of custody:

28 (1) The person has a prior conviction of a serious felony
29 described in subdivision (c) of Section 1192.7.

30 (2) The person has a prior conviction of a violent felony
31 described in subdivision (c) of Section 667.5.

32 (3) The person has a prior conviction for which the person was
33 sentenced pursuant to paragraph (2) of subdivision (e) of Section
34 667 or paragraph (2) of subdivision (c) of Section 1170.12.

35 (4) The person has a prior conviction of a crime for which the
36 person was classified as a high-risk sex offender.

37 (5) The person has a conviction of a crime for which the person
38 was required, as a condition of parole, to undergo treatment by the
39 State Department of State Hospitals pursuant to Section 2962.

1 (c) Notwithstanding any other law, all other offenders released
2 from prison shall be placed on postrelease supervision pursuant
3 to Title 2.05 (commencing with Section 3450).

4 (d) At any time during the period of parole of a person subject
5 to this section, if any parole agent or peace officer has probable
6 cause to believe that the parolee is violating any term or condition
7 of his or her parole, the agent or officer may, without warrant or
8 other process and at any time until the final disposition of the case,
9 arrest the person and bring him or her before the court, or the court
10 may, in its discretion, issue a warrant for that person's arrest
11 pursuant to Section 1203.2.

12 (e) Upon review of the alleged violation and a finding of good
13 cause that the parolee has committed a violation of law or violated
14 his or her conditions of parole, the supervising parole agency may
15 impose additional and appropriate conditions of supervision,
16 including rehabilitation and treatment services and appropriate
17 incentives for compliance, and impose immediate, structured, and
18 intermediate sanctions for parole violations, including flash
19 incarceration in a city or a county jail. Periods of "flash
20 incarceration," as defined in subdivision (f) are encouraged as one
21 method of punishment for violations of a parolee's conditions of
22 parole. This section does not preclude referrals to a reentry court
23 pursuant to Section 3015.

24 (f) "Flash incarceration" is a period of detention in a city or a
25 county jail due to a violation of a parolee's conditions of parole.
26 The length of the detention period can range between one and 10
27 consecutive days. Shorter, but if necessary more frequent, periods
28 of detention for violations of a parolee's conditions of parole shall
29 appropriately punish a parolee while preventing the disruption in
30 a work or home establishment that typically arises from longer
31 periods of detention.

32 (g) If the supervising parole agency has determined, following
33 application of its assessment processes, that intermediate sanctions
34 up to and including flash incarceration are not appropriate, the
35 supervising parole agency shall, pursuant to Section 1203.2,
36 petition either the court in the county in which the parolee is being
37 supervised or the court in the county in which the alleged violation
38 of supervision occurred, to revoke parole. At any point during the
39 process initiated pursuant to this section, a parolee may waive, in
40 writing, his or her right to counsel, admit the parole violation,

1 waive a court hearing, and accept the proposed parole modification
2 or revocation. The petition shall include a written report that
3 contains additional information regarding the petition, including
4 the relevant terms and conditions of parole, the circumstances of
5 the alleged underlying violation, the history and background of
6 the parolee, and any recommendations. The Judicial Council shall
7 adopt forms and rules of court to establish uniform statewide
8 procedures to implement this subdivision, including the minimum
9 contents of supervision agency reports. Upon a finding that the
10 person has violated the conditions of parole, the court shall have
11 authority to do any of the following:

12 (1) Return the person to parole supervision with modifications
13 of conditions, if appropriate, including a period of incarceration
14 in county jail.

15 (2) Revoke parole and order the person to confinement in the
16 county jail.

17 (3) Refer the person to a reentry court pursuant to Section 3015
18 or other evidence-based program in the court's discretion.

19 (h) Confinement pursuant to paragraphs (1) and (2) of
20 subdivision (g) shall not exceed a period of 180 days in the county
21 jail.

22 (i) Notwithstanding any other law, if Section 3000.1 or
23 paragraph (4) of subdivision (b) of Section 3000 applies to a person
24 who is on parole and the court determines that the person has
25 committed a violation of law or violated his or her conditions of
26 parole, the person on parole shall be remanded to the custody of
27 the Department of Corrections and Rehabilitation and the
28 jurisdiction of the Board of Parole Hearings for the purpose of
29 future parole consideration.

30 (j) Notwithstanding subdivision (a), any of the following persons
31 released from state prison shall be subject to the jurisdiction of,
32 and parole supervision by, the Department of Corrections and
33 Rehabilitation for a period of parole up to three years or the parole
34 term the person was subject to at the time of the commission of
35 the offense, whichever is greater:

36 (1) The person is required to register as a sex offender pursuant
37 to Chapter 5.5 (commencing with Section 290) of Title 9 of Part
38 1, and was subject to a period of parole exceeding three years at
39 the time he or she committed a felony for which they were
40 convicted and subsequently sentenced to state prison.

(2) The person was subject to parole for life pursuant to Section 3000.1 at the time of the commission of the offense that resulted in a conviction and state prison sentence.

(k) Parolees subject to this section who have a pending adjudication for a parole violation on July 1, 2013, are subject to the jurisdiction of the Board of Parole Hearings. Parole revocation proceedings conducted by the Board of Parole Hearings prior to July 1, 2013, if reopened on or after July 1, 2013, are subject to the jurisdiction of the Board of Parole Hearings.

(l) Except as described in subdivision (d), any person who is convicted of a felony that requires community supervision and who still has a period of state parole to serve shall discharge from state parole at the time of release to community supervision.

(m) Any person released to parole supervision pursuant to subdivision (a) or (b) shall, regardless of any subsequent determination that the person should have been released pursuant to subdivision (c), remain subject to subdivision (a) or (b) after having served 60 days under supervision pursuant to subdivision (a) or (b).

~~SEC. 5.~~

SEC. 3. Section 3451 of the Penal Code is amended to read:

3451. (a) Notwithstanding any other law and except for persons serving a prison term for any crime described in subdivision (b), all persons released from prison on and after October 1, 2011, or, whose sentence has been deemed served pursuant to Section 2900.5 after serving a prison term for a felony shall, upon release from prison and for a period not exceeding three years immediately following release, be subject to community supervision provided by a county agency designated by each county's board of supervisors which is consistent with evidence-based practices, including, but not limited to, supervision policies, procedures, programs, and practices demonstrated by scientific research to reduce recidivism among individuals under postrelease supervision.

(b) This section shall not apply to any person released from prison after having served a prison term for any of the following:

(1) A serious felony described in subdivision (c) of Section 1192.7.

(2) A violent felony described in subdivision (c) of Section 667.5.

1 (3) A crime for which the person was sentenced pursuant to
2 paragraph (2) of subdivision (e) of Section 667 or paragraph (2)
3 of subdivision (c) of Section 1170.12.

4 (4) Any crime for which the person is classified as a high-risk
5 sex offender.

6 (5) Any crime for which the person is required, as a condition
7 of parole, to undergo treatment by the State Department of State
8 Hospitals pursuant to Section 2962.

9 (c) This section shall not apply to any person released from
10 prison to whom any of the following apply:

11 (1) The person has a prior conviction of a serious felony
12 described in subdivision (c) of Section 1192.7.

13 (2) The person has a prior conviction of a violent felony
14 described in subdivision (c) of Section 667.5.

15 (3) The person has a prior conviction for which the person was
16 sentenced pursuant to paragraph (2) of subdivision (e) of Section
17 667 or paragraph (2) of subdivision (c) of Section 1170.12.

18 (4) The person has a prior conviction of a crime for which the
19 person was classified as a high-risk sex offender.

20 (5) The person has a conviction of a crime for which the person
21 was required, as a condition of parole, to undergo treatment by the
22 State Department of State Hospitals pursuant to Section 2962.

23 (d) (1) Postrelease supervision under this title shall be
24 implemented by a county agency according to a postrelease strategy
25 designated by each county's board of supervisors.

26 (2) The Department of Corrections and Rehabilitation shall
27 inform every prisoner subject to the provisions of this title, upon
28 release from state prison, of the requirements of this title and of
29 his or her responsibility to report to the county agency responsible
30 for serving that inmate. The department shall also inform persons
31 serving a term of parole for a felony offense who are subject to
32 this section of the requirements of this title and of his or her
33 responsibility to report to the county agency responsible for serving
34 that parolee. Thirty days prior to the release of any person subject
35 to postrelease supervision by a county, the department shall notify
36 the county of all information that would otherwise be required for
37 parolees under subdivision (e) of Section 3003.

38 (e) Any person released to postrelease community supervision
39 pursuant to subdivision (a) shall, regardless of any subsequent
40 determination that the person should have been released to parole

1 pursuant to Section 3000.08, remain subject to subdivision (a) after
2 having served 60 days under supervision pursuant to subdivision
3 (a).

4 ~~SEC. 6. This act shall become operative only if the federal~~
5 ~~court order dated February 10, 2014, requiring prison bed capacity~~
6 ~~to be at 137.5 percent of design capacity by February 28, 2016,~~
7 ~~has been fully complied with on or before February 28, 2016.~~